

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

TANIA BAKER

*

Plaintiff

*

v

*

Civil Action No. CCB-12-1309

MERCY MEDICAL CENTER

*

Defendant

*

ORDER

The above-captioned case was filed on April 30, 2012, together with a motion to proceed in forma pauperis. Because she appears indigent, plaintiff's motion shall be granted.

Plaintiff asserts in the self-represented complaint that medical ailments affecting her throat were "maliciously" and "ignorantly" ignored. ECF No. 1 at p. 4. The specific conditions she lists are pharyngitis, pharyngeal tonsils, nasal congestion, and hypoxemia. *Id.* She states that as a result of such neglect she could have died. She seeks an order from this court requiring surgery be performed as well as compensatory damages. *Id.* at p. 5.

To the extent the instant complaint asserts "criminal negligence," criminal charges may not be brought in a civil suit or by a private party. Medical malpractice claims do not involve a federal question as there is no constitutional or federal statutory right to error-free medical care. A state medical malpractice claim¹ may be brought in federal court if there is diversity of citizenship between the parties. Plaintiff and Defendant reside in Maryland; therefore, there is no basis for diversity jurisdiction. *See* 28 U.S.C. §1332.

¹ Under Maryland law, a medical malpractice claim can only be pursued in court after a plaintiff complies with the Health Claims Arbitration Act. *See* Md Code, Cts & Jud. Proc., §3-2A-06 *et seq.*

Accordingly, it is this 3rd day of May, 2012, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. Plaintiff's motion to proceed in forma pauperis IS GRANTED;
2. The complaint IS DISMISSED for lack of jurisdiction;
3. The Clerk SHALL PROVIDE a copy of this Order to Plaintiff; and
4. The Clerk SHALL CLOSE this case.

_____/s/_____
Catherine C. Blake
United States District Judge